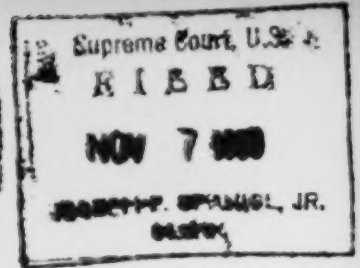


90-9 69

NO. _____



IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1990

ERIC J. PHELPS,

Petitioner

v.

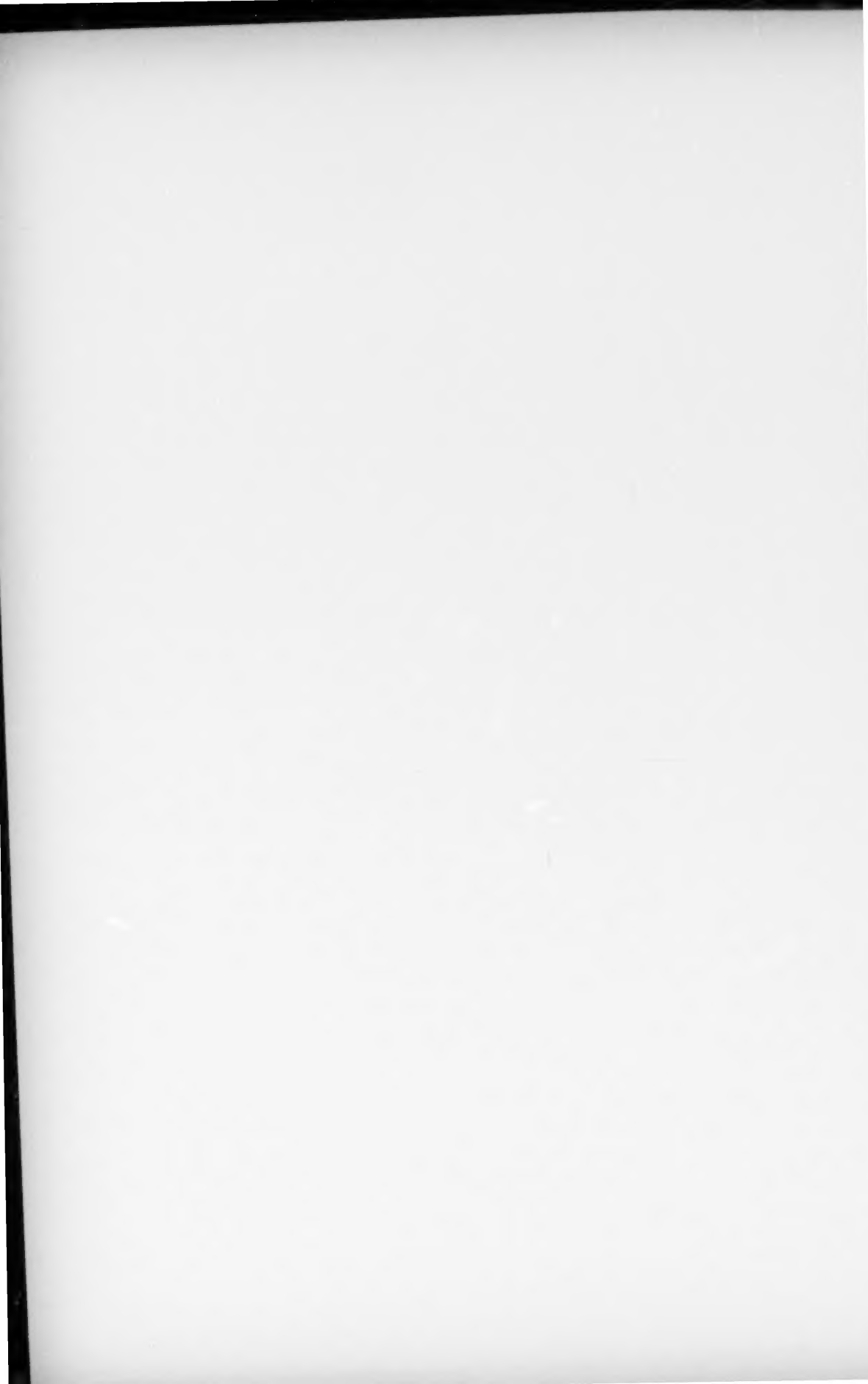
COMMONWEALTH OF PENNSYLVANIA,

Respondent

PETITION FOR A WRIT OF CERTIORARI
TO THE SUPERIOR COURT OF THE
COMMONWEALTH OF PENNSYLVANIA

PETITION FOR WRIT OF CERTIORARI

ERIC J. PHELPS
366 South Main Street
P.O. Box 552
Manheim, PA 17545
(717) 664-2590



QUESTIONS PRESENTED FOR REVIEW

BRIEF INTRODUCTORY STATEMENT

The petitioner asserts that he holds the status of an "American Freeman," referred to in President Zachary Taylor's Inaugural Address (March 5, 1849, and in Justice Harlan's dissent in Maxwell v. Dow, 176 US 581, 592 (1899)). As an American Freeman, petitioner holds privileges and immunities of subordinate and derivative United States citizenship conferred by Article IV Section 2 of the United States Constitution, said privileges and immunities including the Bill of Rights. Therefore, petitioner, while admitting jurisdiction, asserted in the trial court and on appeal that the court's subject matter jurisdiction was limited to an English Common Law procedure, the jury having the power of jury nullification. To the contrary, the Superior Court of the Commonwealth of Pennsylvania decided a major federal question in opposition to past holdings of this court when it asserted:

...there is no legal or constitutional basis for the claimed status.

THE UNIVERSITY OF CHICAGO

DEPARTMENT OF THE HISTORY

OF THE UNITED STATES

AND OF THE HISTORY OF THE

AMERICAN PEOPLE

OF THE UNITED STATES

OF THE UNITED STATES

OF THE UNITED STATES

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Therefore, the questions presented are:

1. Whether the United States Constitution, through Article IV Section 2, conferred a general U. S. citizenship on the people who were then citizens of the several States.
2. If so, whether the privileges and immunities so conferred included fundamental rights, the Bill of Rights in particular.
3. Whether the Fourteenth Amendment to the United States Constitution reversed the origin and character of American citizenship.
4. Whether the privileges and immunities provision of the Fourteenth Amendment includes the Bill of Rights.
5. Whether the privileges and immunities granted through the Fourteenth Amendment are personal property.
6. If so, whether said privileges and immunities can be abandoned by means of a release executed pursuant to state law.
7. If so, whether the former status described in the introductory statement is thereby restored pursuant to the plain, obvious principles of law as embodied in the doctrine of stare decisis relating



to contract law.

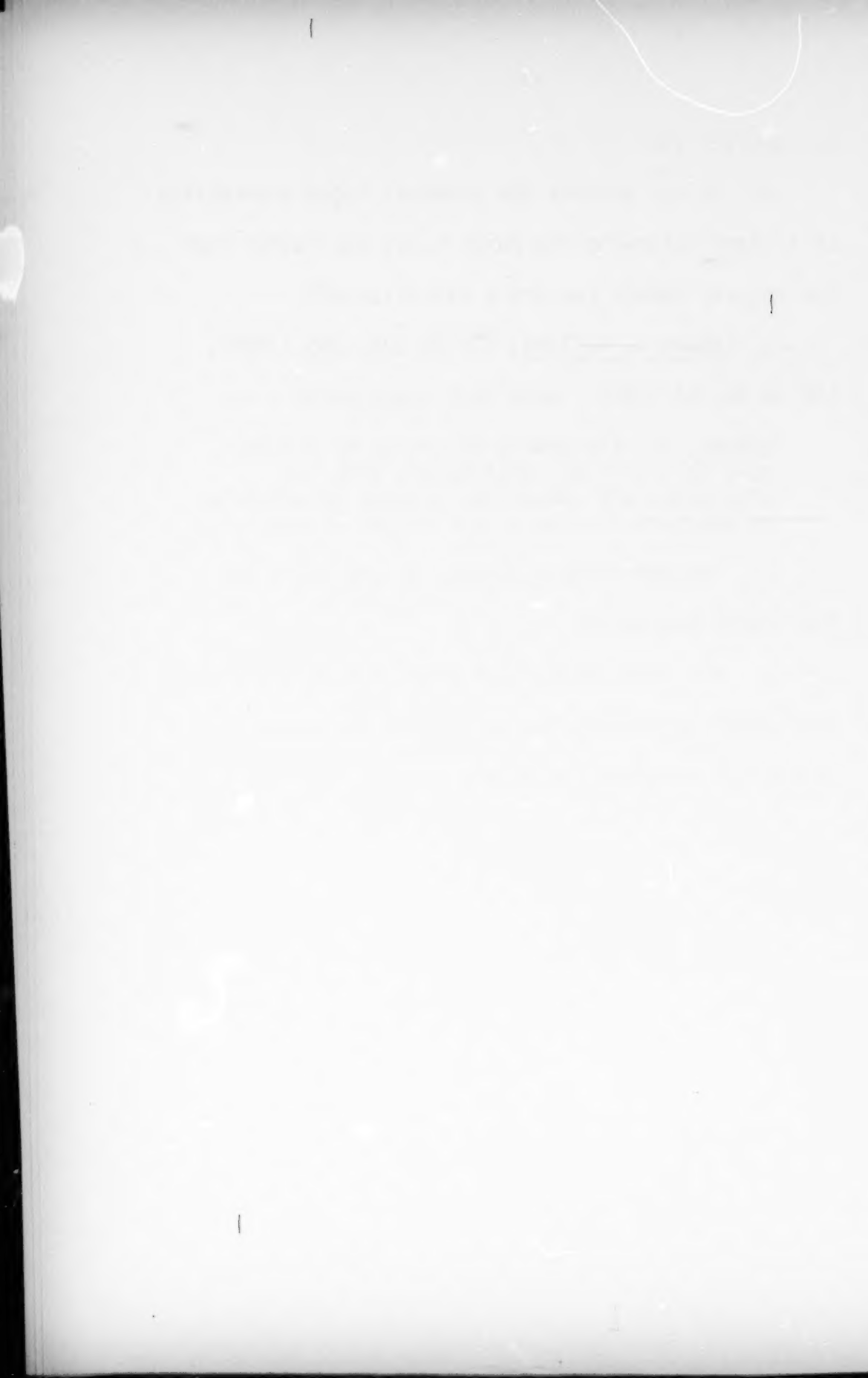
8. If so, whether the criminal legal proceedings of a state following the Roman Civil Law rather than the English Common Law are a violation of:

a. Blake v. McClung, 172 US 239, 255 (1898);
176 US 59, 64 (1900), when this Court held:

Indeed, all the powers possessed by a State must be exercised consistently with the privileges and immunities granted or protected by the Constitution of the United States.

b. The due process clauses of the Fifth and Fourteenth Amendments.

c. The equal protection provision of the Fourteenth Amendment, the petitioner not being "similarly situated" as others.



PARTIES TO THE PROCEEDING

PETITIONER

Eric J. Phelps, prose
U. S. Freeman
366 South Main Street
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Manheim, Pa. 17545
(717) 664-2590

RESPONDENT

Henry S. Kenderdine
District Attorney, Lancaster County
50 North Duke Street
Lancaster, Pa. 17602
(717) 299-8100

Attorney General
Commonwealth of Pennsylvania
15th Floor, Strawberry Square
Harrisburg, Pa. 17120



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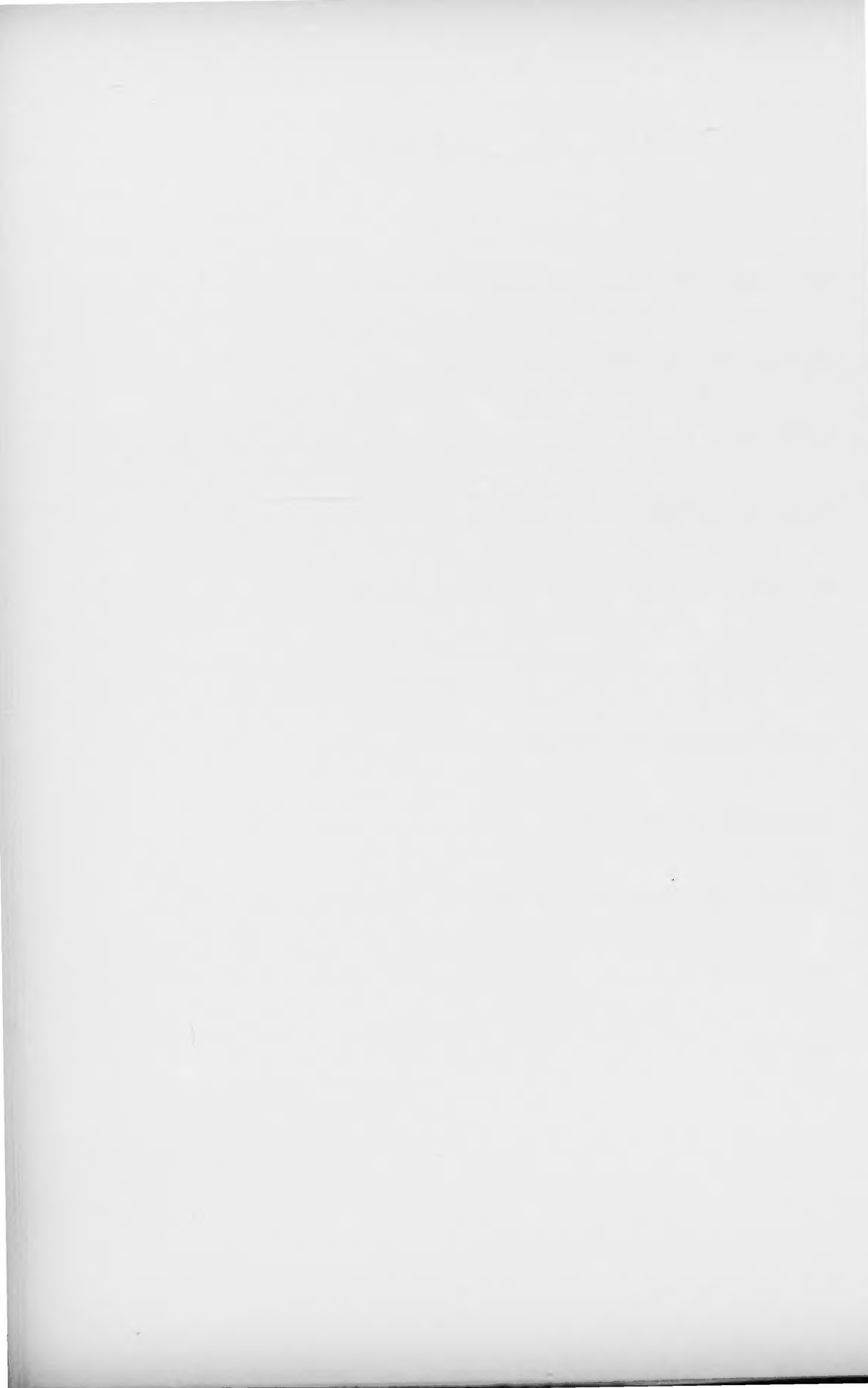


TABLE OF AUTHORITIES

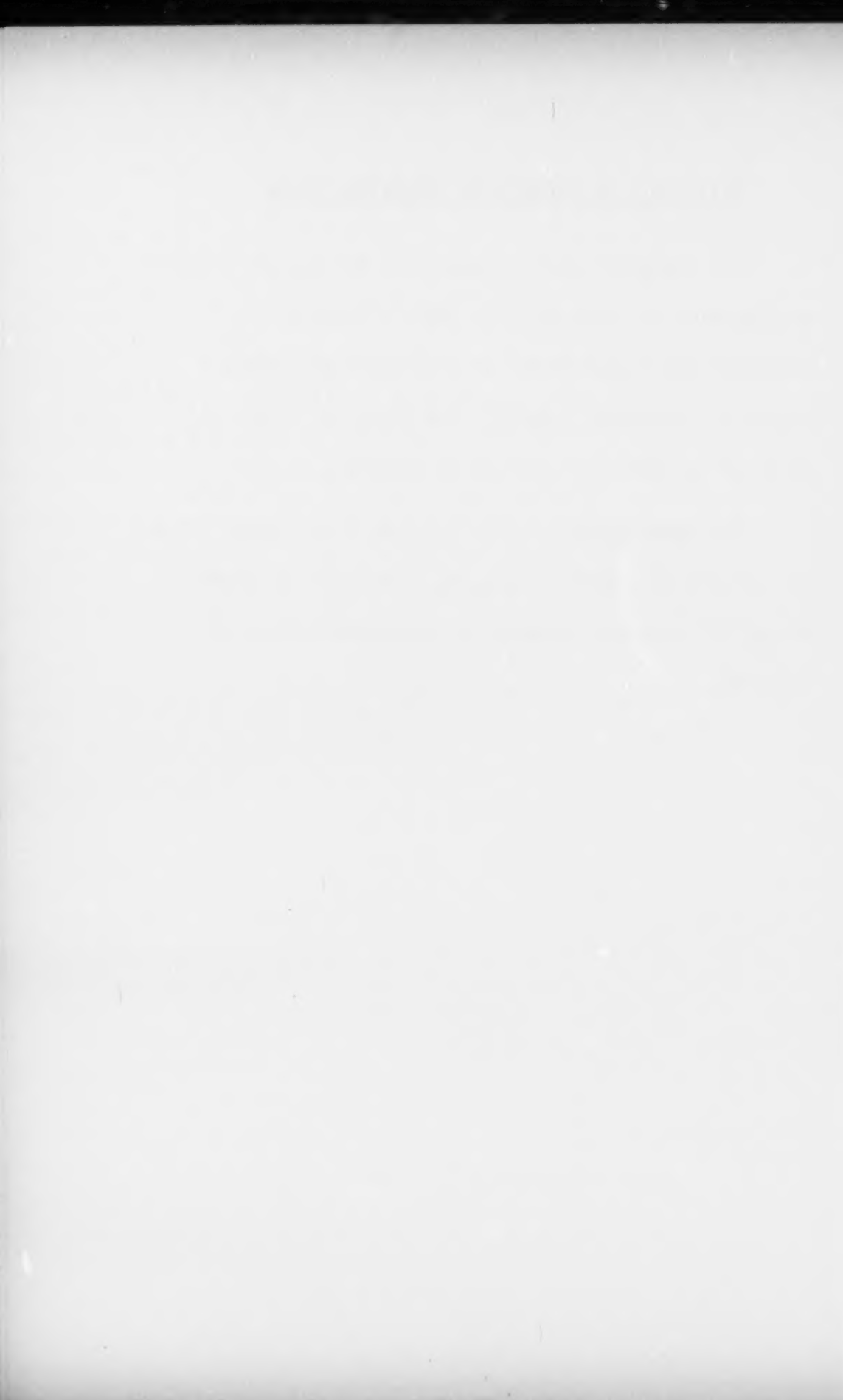
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REFERENCE TO REPORTS OF OPINIONS BELOW

The Superior Court issued its Per Curiam Order and Opinion of November 17, 1989 affirming the decision and final Order of the Court of Common Pleas of Lancaster County. The Superior Court's Opinion is contained herein as Appendix A.

The Memorandum Opinion (of the final Order issued on January 24, 1989) issued by the Court of Common Pleas of Lancaster County is contained herein as Appendix B.



JURISDICTION

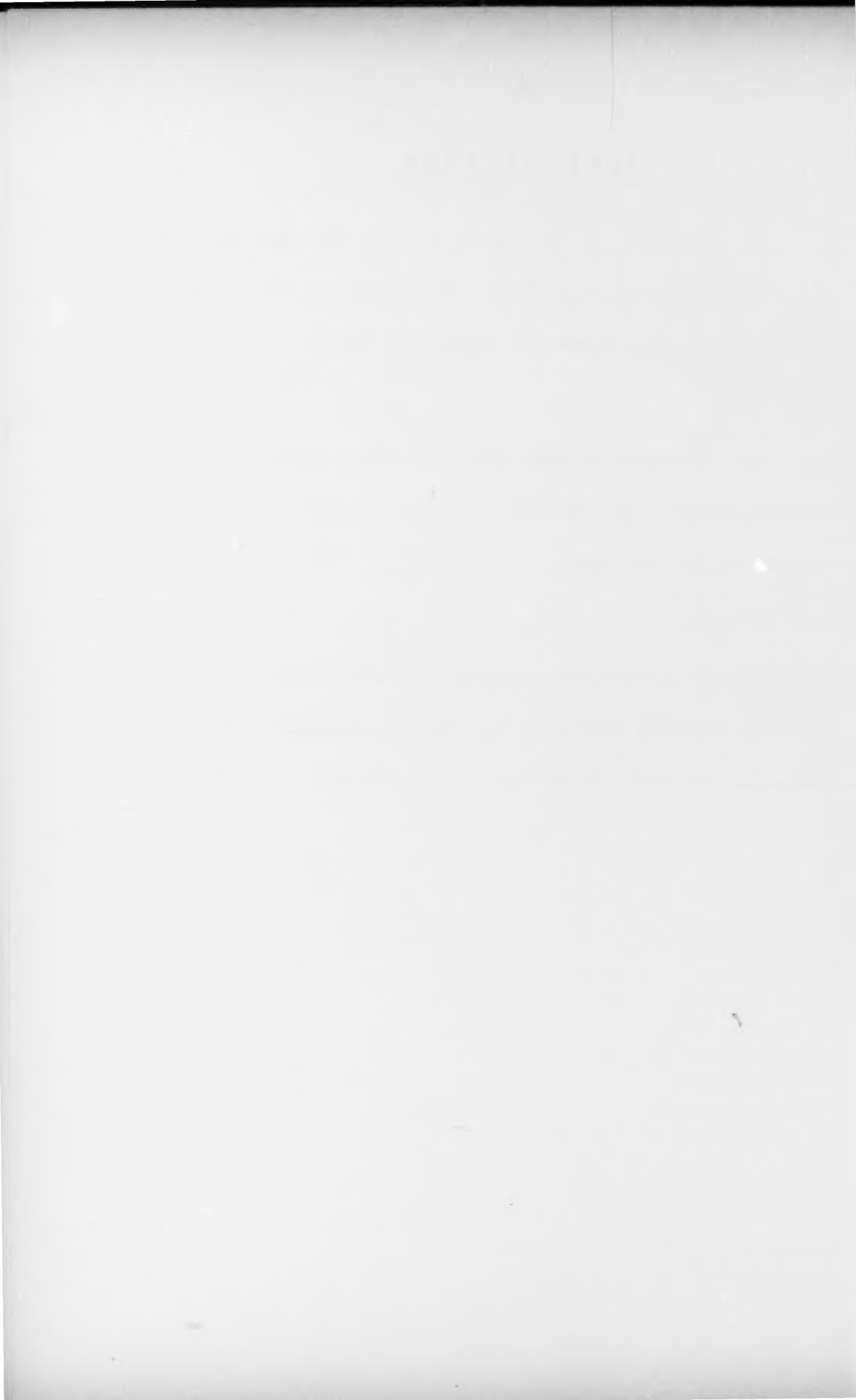
1. The date of the entry of the Supreme Court of the Commonwealth of Pennsylvania denying petitioner's Petition for Allowance of Appeal is August 7, 1990.

Appendix C.

2. The date of the entry of the judgment of the Superior Court of the Commonwealth of Pennsylvania sought to be reviewed is November 17, 1989.

Appendix A.

3. The statutory provision conferring jurisdiction of this Court to review the judgment, in question by writ of certiorari is 28 USC 1257 (3).



CONSTITUTIONAL PROVISIONS

ARTICLE IV SECTION 2

The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

14TH AMENDMENT, SECTION 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.



STATEMENT OF THE CASE

On June 20, 1988, a criminal complaint was filed by Officer William A. Sindorf of the Manheim Township Police Department, Commonwealth of Pennsylvania, charging the petitioner with Altered, Forged or Counterfeit Documents and Plates (M1) along with three other summary offenses. The complaint was filed with Murry R. Horton, District Justice, Manheim Township, Lancaster County, Pennsylvania. Petitioner appeared before Justice Horton on July 20, 1988 for a preliminary hearing and was released R.O.R. via a bail bond, nominal bail being set at two thousand (2,000) Federal Reserve Notes.

On November 16, 1988, petitioner was granted a pretrial conference at which he presented his Motion for Judicial Notice of Status, at which time he raised major federal questions. Said Motion was neither granted nor denied, contrary to the rules of procedure, the Court proceeding to the trial. Petitioner was denied a jury trial according to the course of the English Common Law as demanded, and was offered a "jury trial" according to the course of the Roman Civil Law, the jury having no power to judge both the



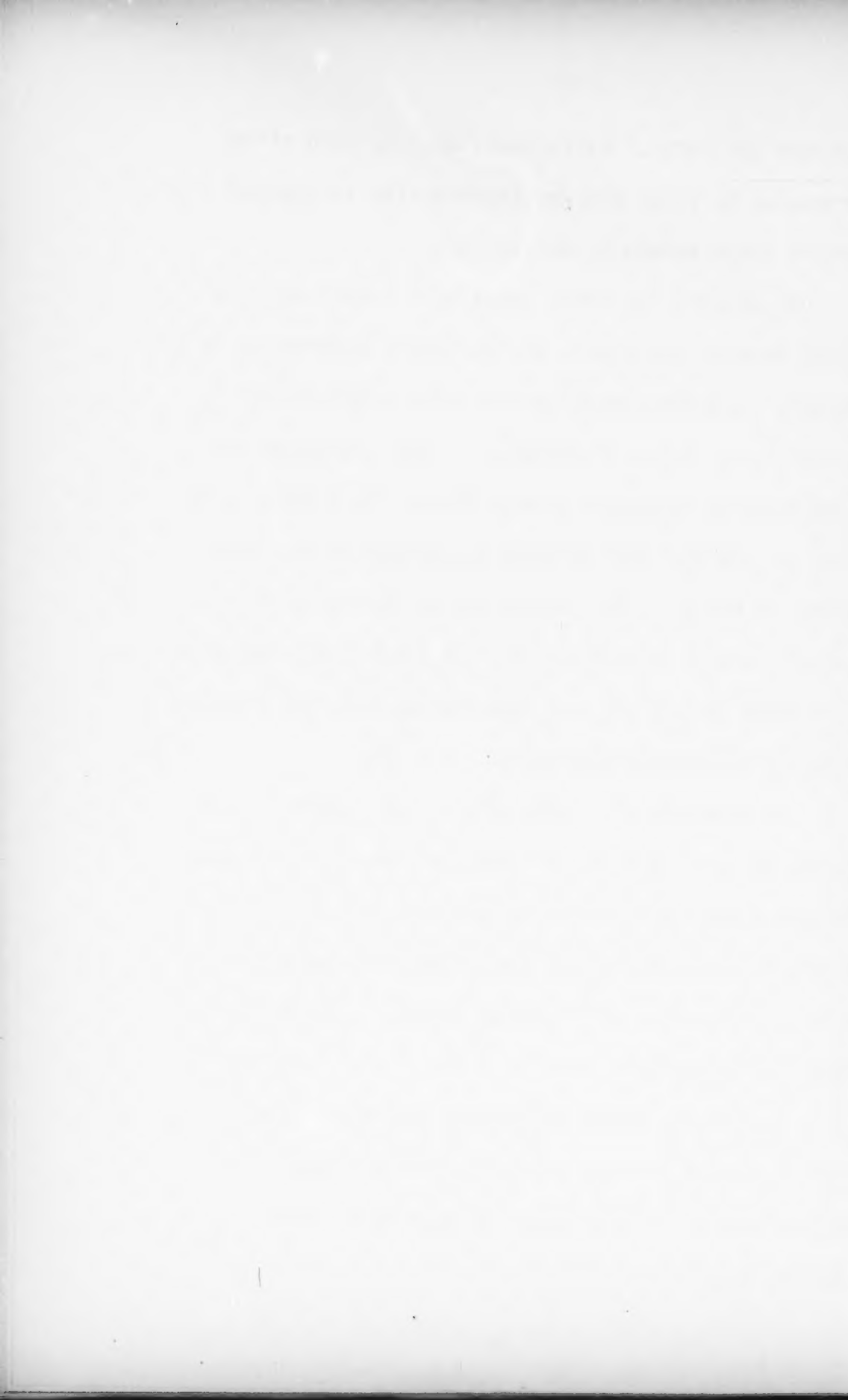
law and the facts. Petitioner, waiving said offer, proceeded to trial and was found guilty as charged before Judge Ronald L. Buckwalter.

On January 13, 1989, petitioner, again raising major federal questions, as the Court listened to "a lengthy statement by defendant before sentencing" (Appendix B, Page 2, Paragraph 1, was sentenced and committed to Lancaster County Prison for fifteen (15) days to one (1) year without revocation of his bail bond, it being in full force and effect while he was incarcerated. On January 23, 1989 petitioner appealed from that denial and was released on bail via the same bond as previously mentioned.

On November 17, 1989, after oral argument with Judge Kelly, the Superior Court affirmed said judgment of the lower court, finding no legal infirmity in the proceedings in the trial court" and "no legal or constitutional basis for claimed status." (Appendix A, Page A4, paragraph 1.)

Petitioner filed a Petition for Allowance of Appeal to the Supreme Court of the Commonwealth of Pennsylvania but was denied on August 7, 1990.

Appendix C.



REASONS FOR GRANTING THE WRIT

I.

THE SUPERIOR COURT OF THE COMMONWEALTH OF PENNSYLVANIA HAS DECIDED A FEDERAL QUESTION IN A WAY THAT CONFLICTS WITH APPLICABLE DECISIONS OF THIS COURT.

The Superior Court's decision, specifically "There is no legal or constitutional basis for the claimed status" is in direct conflict with applicable decisions of this Court, Scott v. Sandford, 19 How. 393, 406, 407; Minor v. Happersett, 88 US 162; Cole v. Cunningham, 133 US 107; and Maxwell v. Dow, 176 US 581, 592 in particular. It is well settled that the status held by all U. S. citizens prior to the adoption of the Fourteenth Amendment was that of "freeman," of which George Washington spoke in his Inaugural Address, of which Andrew Jackson spoke in his Inaugural Address, of which he also spoke four times in his Farewell Address, of which General Harrison spoke in his Inaugural Address and of which Zachary Taylor spoke in his Inaugural Address. To deny the constitutional basis of the status of an American Freeman holding privileges and immunities of United State citizenship



conferred by Article IV Section 2 of the U. S. Constitution, flies in the face of both the law as well as history undermining the weight of judicial decisions carefully handed down by this Court in fulfilling its sacred duty of interpreting the Constitution.

II.

IT IS VITAL THAT THE LEGAL QUESTIONS INVOLVING THE RESTORATION OF ARTICLE IV SECTION 2 STATUS BE FINALLY DECIDED.

It is vital that the legal questions involving the return from the status conferred by the Fourteenth Amendment to the status conferred by Article IV Section 2 be finally decided by this Court for three reasons.

1. It will remedy a continued injustice perpetrated by the 39th Congress of the United States (1866-68), then under the control of the "radical red republican party," which, by means of the Reconstruction Act of 1866, placed the Southern States under martial law until each finally "ratified" the Fourteenth Amendment in 1868. It is well settled that Section 1 of said Amendment reversed the origin and character of

American citizenship making United States citizenship paramount and dominant and state citizenship a privilege thereof. Selective Draft Law Cases, 245 US 366.

2. It will remedy a continued injustice perpetrated by this Court in 1872 when the "radical red republicans," constituting a majority, deprived American freemen and their posterity of their heritage of Anglo-American liberty. In the Slaughterhouse Cases, 16 Wall. 36, 79, this Court ruled that privileges and immunities of U. S. citizenship granted through the Fourteenth Amendment, Section 1, do not include fundamental rights. From this decision Justice Stephen Field eloquently dissented stating that the intent of the Amendment was to secure from state abridgement the same privileges and immunities secured from federal abridgement, specifically, the Bill of Rights, they being "the great fundamental rights 'as appertaining to every freeman.'" p. 98. The decision was a great departure from the principle laid down by Justice Bushrod Washington in Corfield v. Coryell, 4 Wash. C.C. 371, and also by this Court in Scott v. Sandford, supra, p. 417, Justice Taney delivering the majority opinion, that privileges and immunities of U. S.



citizenship secured by Article IV Section 2 included fundamental rights, more specifically, the rights enumerated in the first two Amendments. Later, in Maxwell v. Dow, 176 US 597 (1899), it was affirmed that the privileges and immunities provision of the Fourteenth Amendment did not include the Bill of Rights from which Justice John Marshall Harlan of Kentucky magnificently dissented, proclaiming:

It seems to me that the privileges and immunities enumerated in this Amendments (Bill of Rights) belong to every citizen of the United States. They were universally so regarded prior to the adoption of the Fourteenth Amendment. p. 607.

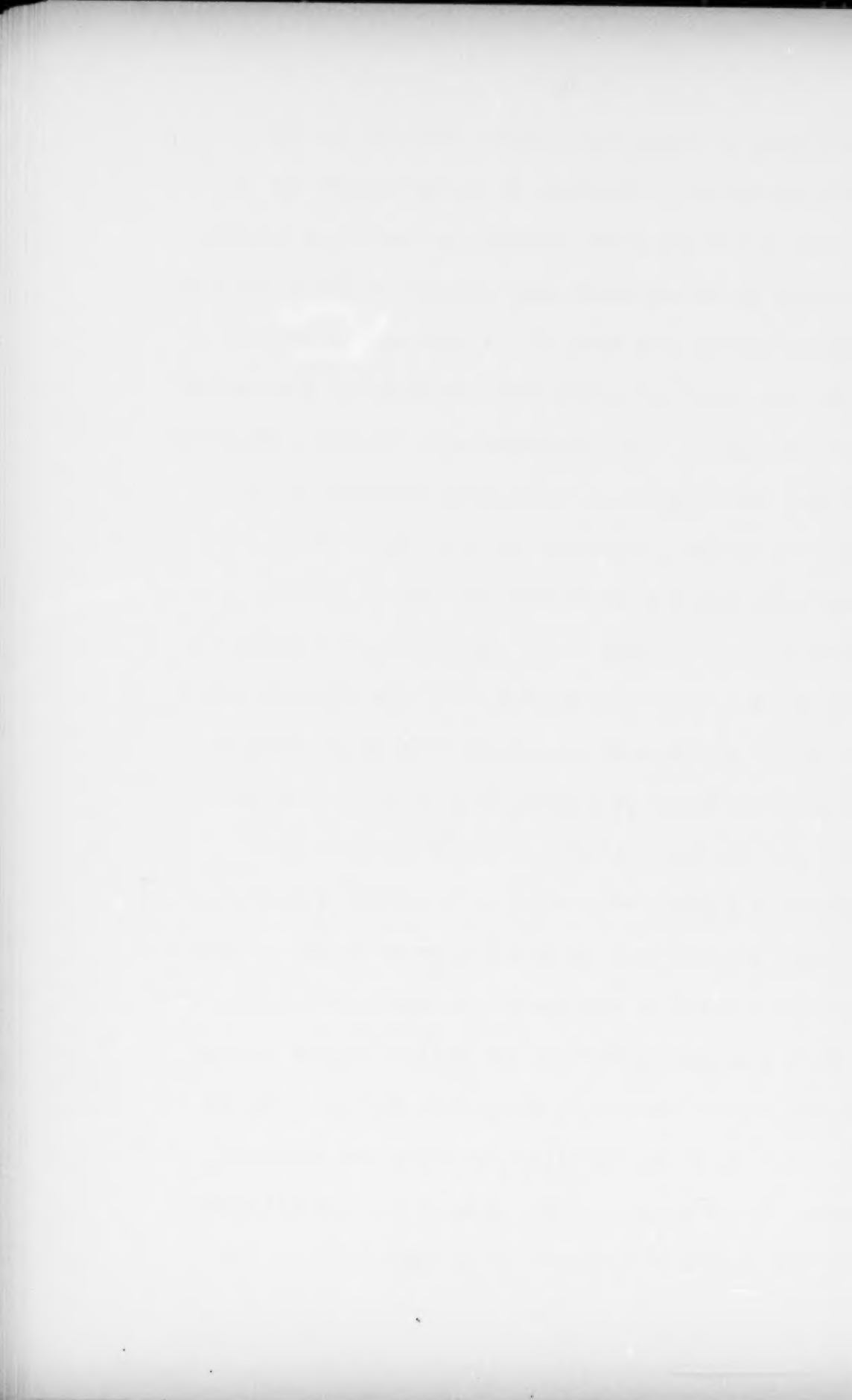
Later came Twining v. New Jersey, 211 US 97 (1907) then Hague v. C.I.O., 307 US 520 (1938), affirming the radical and revolutionary holding of the Slaughterhouse Cases.

3. Considerations of public policy demand it. The people of the United States harbor more and more discontent towards their government with each passing day. they all the while being the true enemies of themselves and their basic interests, demanding a myriad of benefits yet deceptive and evasive when required to pay for the same. Ignorantly they become more susceptible to revolutionary and pernicious doctrines alien to the



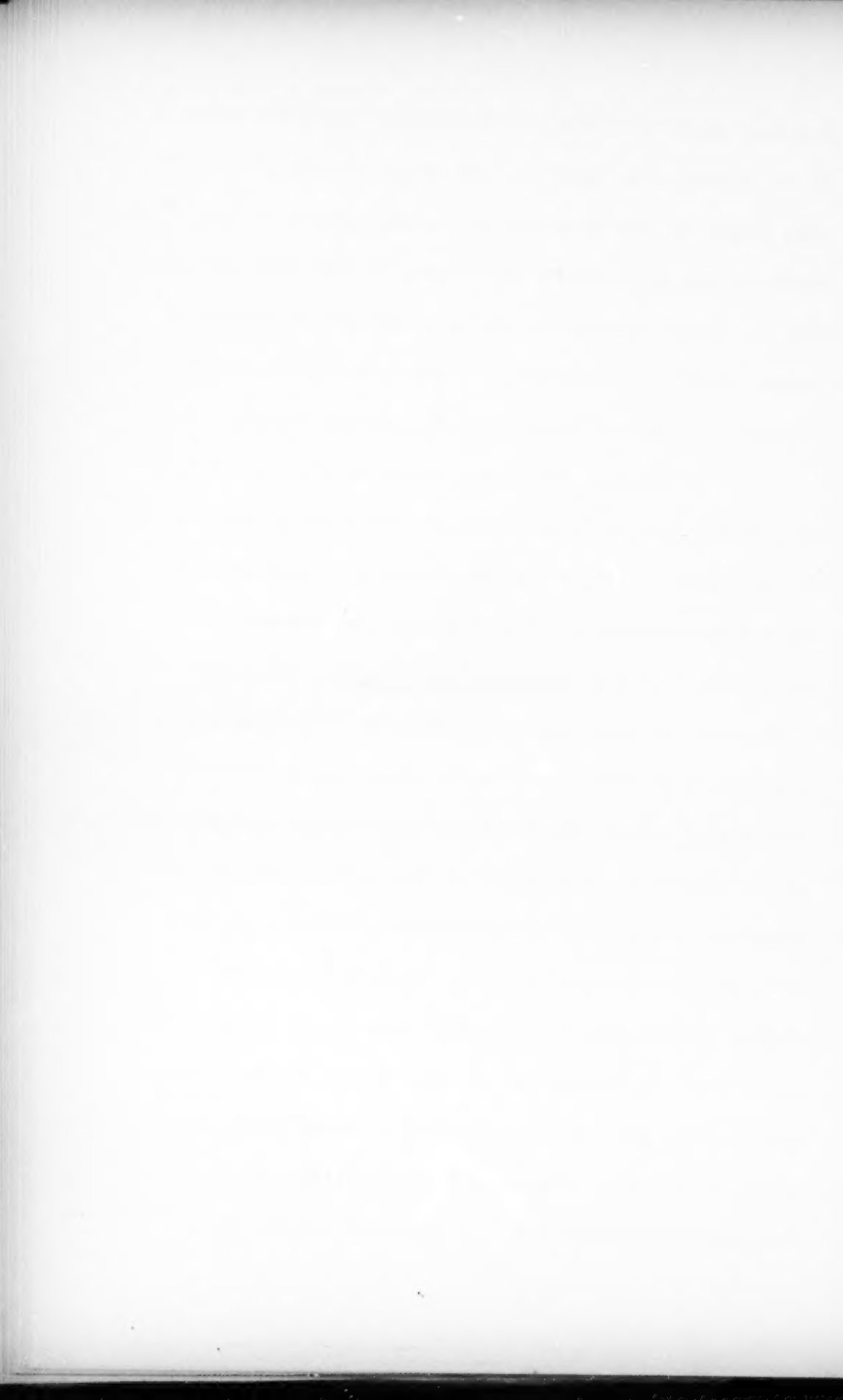
principles of republican liberty espoused by the founding fathers. Burdened by an oppressive taxing system, a managed paper currency printed by a private corporation having never been audited, a static service economy having lost much of its post war industrial base, the resultant grand theft produced by the savings and loan fiasco, the dependence upon foreign commodities to meet basic needs, a financially bankrupt Social Security System, a mammoth national debt, and a generally bankrupt government forcing an already depleted capital base to offshore financial havens via the hue and cry of taxing the rich, the American public is fastly approaching an impasse from which there may be only two means of escape, they being the following:

a. The American people could vest all their powers in a president hailed as a Caesar, a Savior, a fuhrer, who, in time of severe economic crisis, could declare a state of emergency, implement executive orders and declare martial law activating the powers of the Federal Emergency Management Agency. The new dictator, with his totalitarian state and absolute power, could quite possibly suspend the Constitution and the powers of Congress while subordinating the

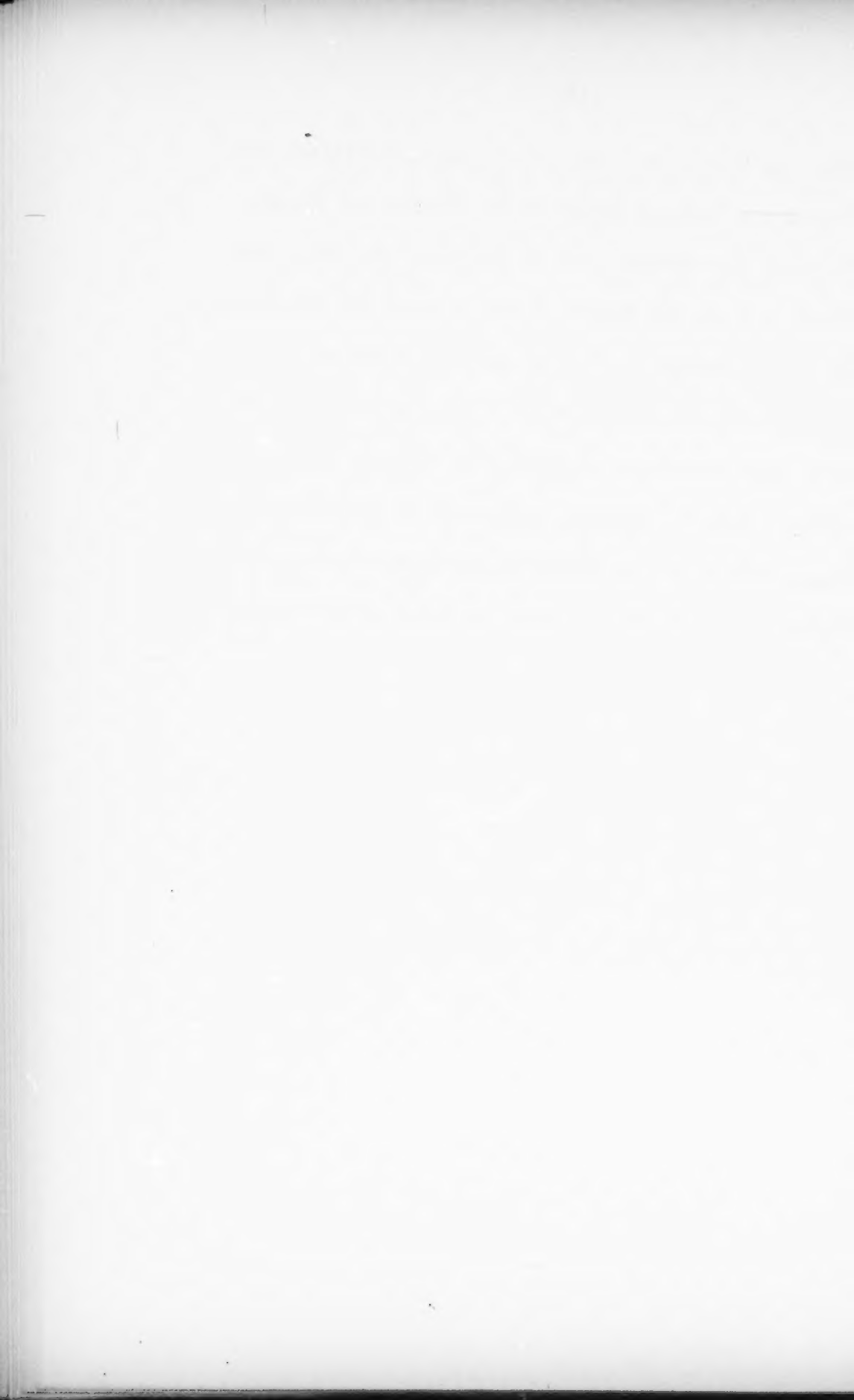


Supreme Court to himself. Petitioner believes this to be a very real senerio, the grand finale of a foreign conspiracy by the monarchs of Europe acting as the "high contracting parties" to the Treaty of the Holy Alliance (1815), later amended to include the secret Treaty of Verona (1822), the Society of Jesus being its chief impetus within the borders of the United States.

b. Individual Americans could return, as herein described, to the former status conferred by Article IV Section 2, without the necessity of repealing the Fourteenth Amendment or unsettling the precedent established in the Slaughterhouse Cases, the Bill of Rights acting once again as absolute limitations on the powers of both the federal and state governments. They would assume responsibility for their own actions while subject to the rigor of the common law, refusing benefits in the form of government monetary grants offered in exchange for their ancient liberties. Acting as the sovereign people they claim to be, they would look to themselves as the source of their problems but to God and the dictates of experience for their solutions. They would stop acting like "degenerate sons of noble sires" and assume once



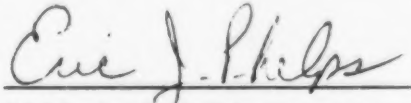
again the high status of the chivalrous fathers who birthed the Federal Republic of the United States, stressing the necessities of religion and morality springing from the Bible of the Protestant Reformation. The change in status would neither be injurious to the public nor to the interests of the state, and therefore could not be against public policy. Such a solution sustained by this Court would infuse life into our Republic, intended to be perpetual, never to perish from the face of the earth.



CONCLUSION

WHEREFORE, based upon the foregoing reasons, the petitioner respectfully requests this Petition for a Writ of Certiorari be granted and a hearing be had in the Supreme Court of the United States.

Respectfully submitted,



ERIC J. PHELPS, pro se

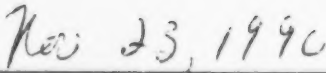
U. S. Freeman

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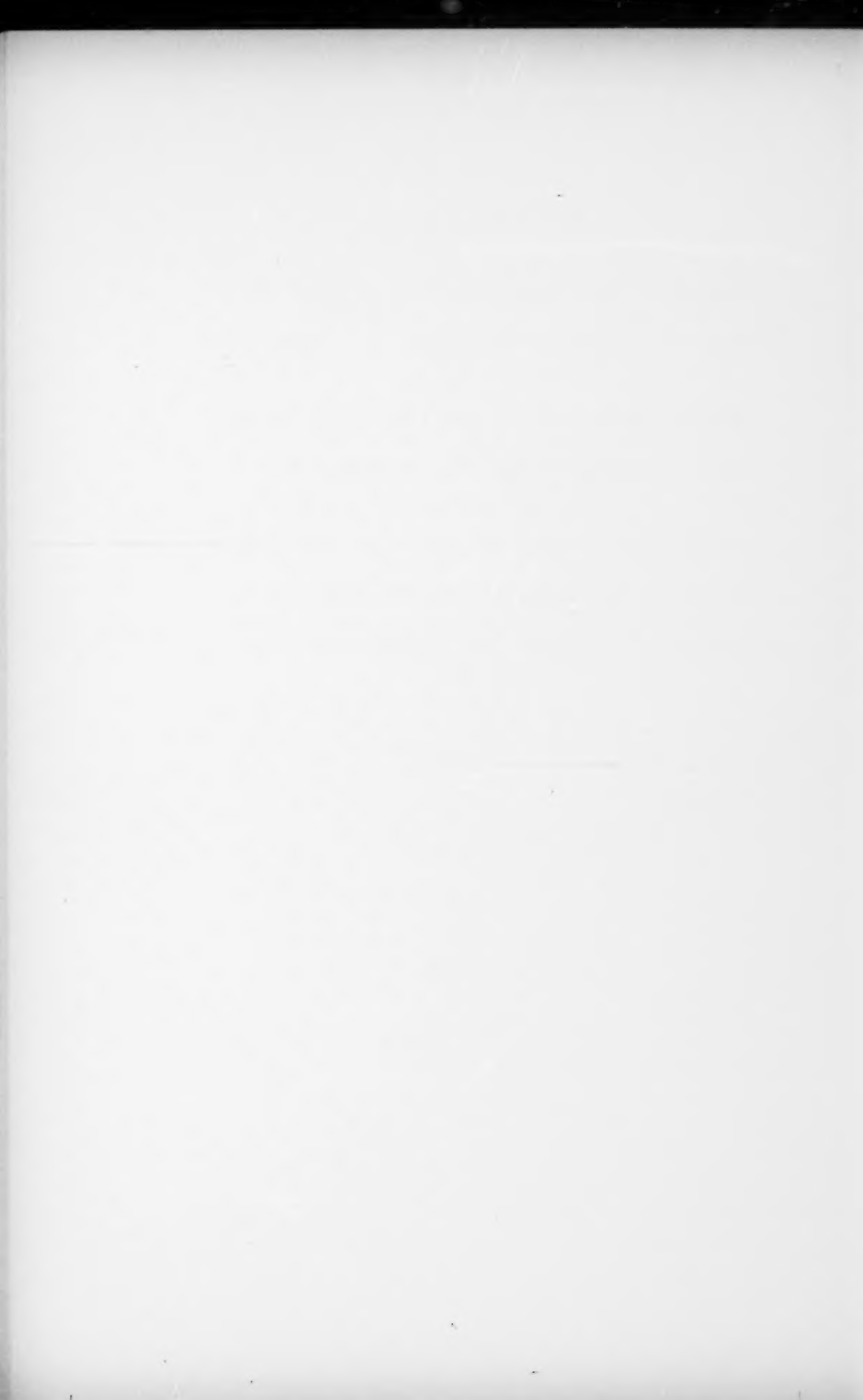


Date



APPENDIX

1. Opinion of the Superior Court of the
Commonwealth of Pennsylvania -- Appendix A
2. Memorandum Opinion of the Lancaster County
Court of Common Pleas -- Appendix B
3. Letter from the Supreme Court of the Common-
wealth of Pennsylvania denying Petition for
Allowance of Appeal -- Appendix C



APPENDIX A

J-78043/89

COMMONWEALTH OF PENNSYLVANIA)	IN THE SUPERIOR COURT OF
)	PENNSYLVANIA
)	
v.)	
)	
ERIC J. PHELPS,)	
Appellant)	NO. 531 PHILADELPHIA, 1989

Appeal from the Judgment of Sentence entered in the
Court of Common Pleas of Lancaster County,
Criminal Division, NO. 1601 OF 1988

Before: TAMILIA, KELLY and CERONE, JJ.

OPINION PER CURIAM: (Filed Nov. 17, 1989)

This is an appeal from judgment of sentence entered
by the court on January 24, 1989 following appellant's
convictions of a misdemeanor and three summary offenses
under the Vehicle Code.¹

He was sentenced to pay a fine of \$100 and spend
15 days to 12 months in prison, followed by community
service.

¹ Altered, forged, or counterfeit documents and
plates (M1); 75 Pa. C.S. 7122.

Registration and certificate of title required; 75 Pa.C.S.
1301.

Operation of vehicle without official certificate of
inspection; 75 Pa.C.S. 4703.

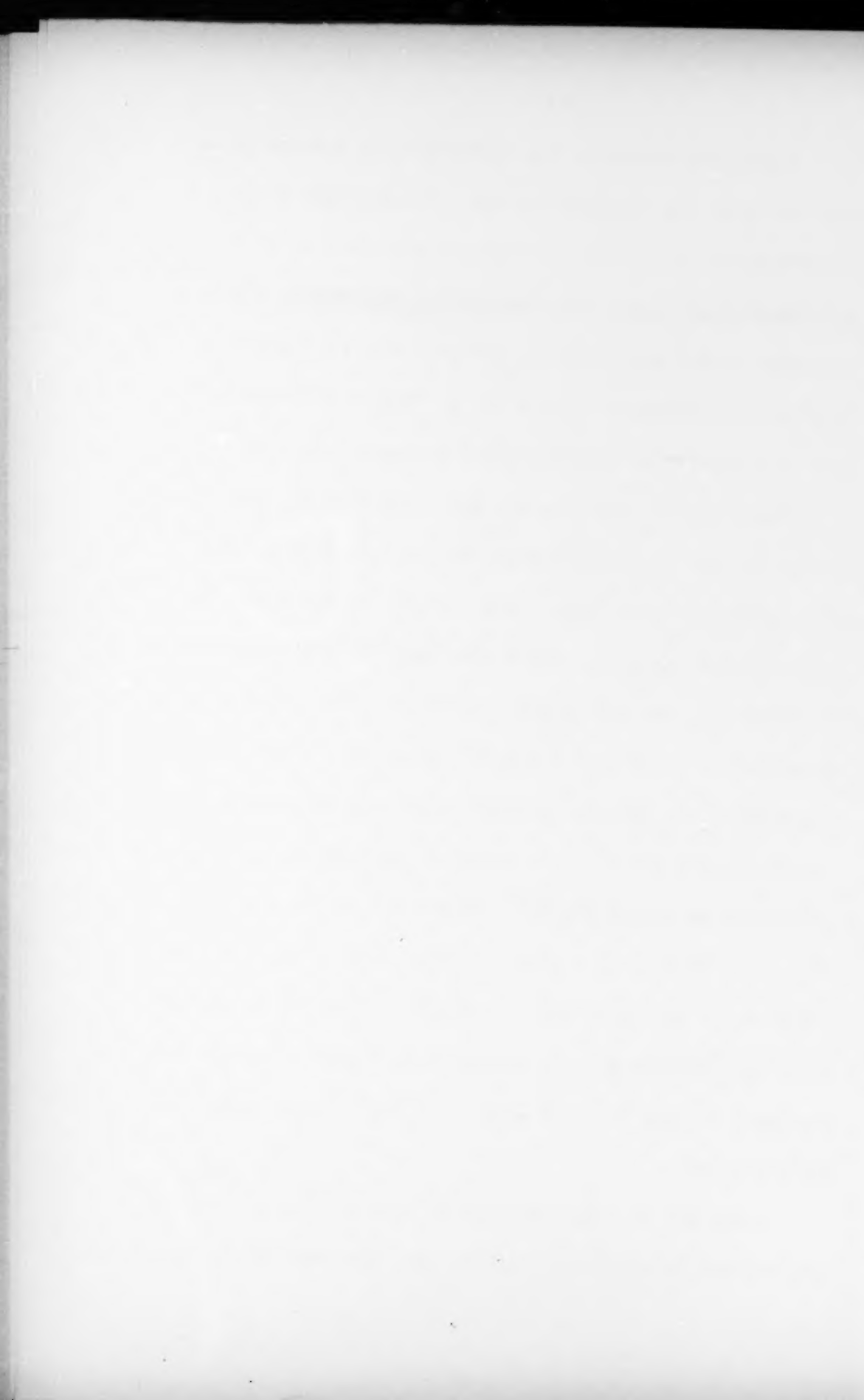
Carrying and exhibiting driver's license on demand;
75 Pa. C.S. 1511.



Appellant contends the Commonwealth has no jurisdiction over him because he has relinquished to the Commonwealth all property rights constituting privileges and immunities under the fourteenth amendment. Such a release, appellant asserts, returns him to the pre-fourteenth amendment status of an "American Freeman," and it revokes the Commonwealth's power over him.

Appellant's position is not supported by any legal authority and is antithetical to the general notions of a democratic society. One cannot create a special legal status so as to avoid the laws of the Commonwealth by releasing certain property rights. We have reviewed appellant's brief and arguments which are comprised of a myriad of disparate, disconnected and untenable legal citations and conclusions without foundation in constitutional and statutory law. Appellant would have us treat his status as a Pennsylvania citizen as a property right which he can divest at will, retaining to himself only such rights and privileges which were granted him pursuant to the Bill of Rights of the United States Constitution.

Inherent in the adoption by the various states of the United States Constitution and the amendments thereto,



was the retention of states' sovereignty over their citizens, which is coextensive in most respects with federal sovereignty. To make abundantly clear that the Federal Constitution did not abrogate individual and states' rights, which were not arrogated to the Federal system, James Madison proposed and had adopted the ninth and tenth amendments to the United States Constitution.

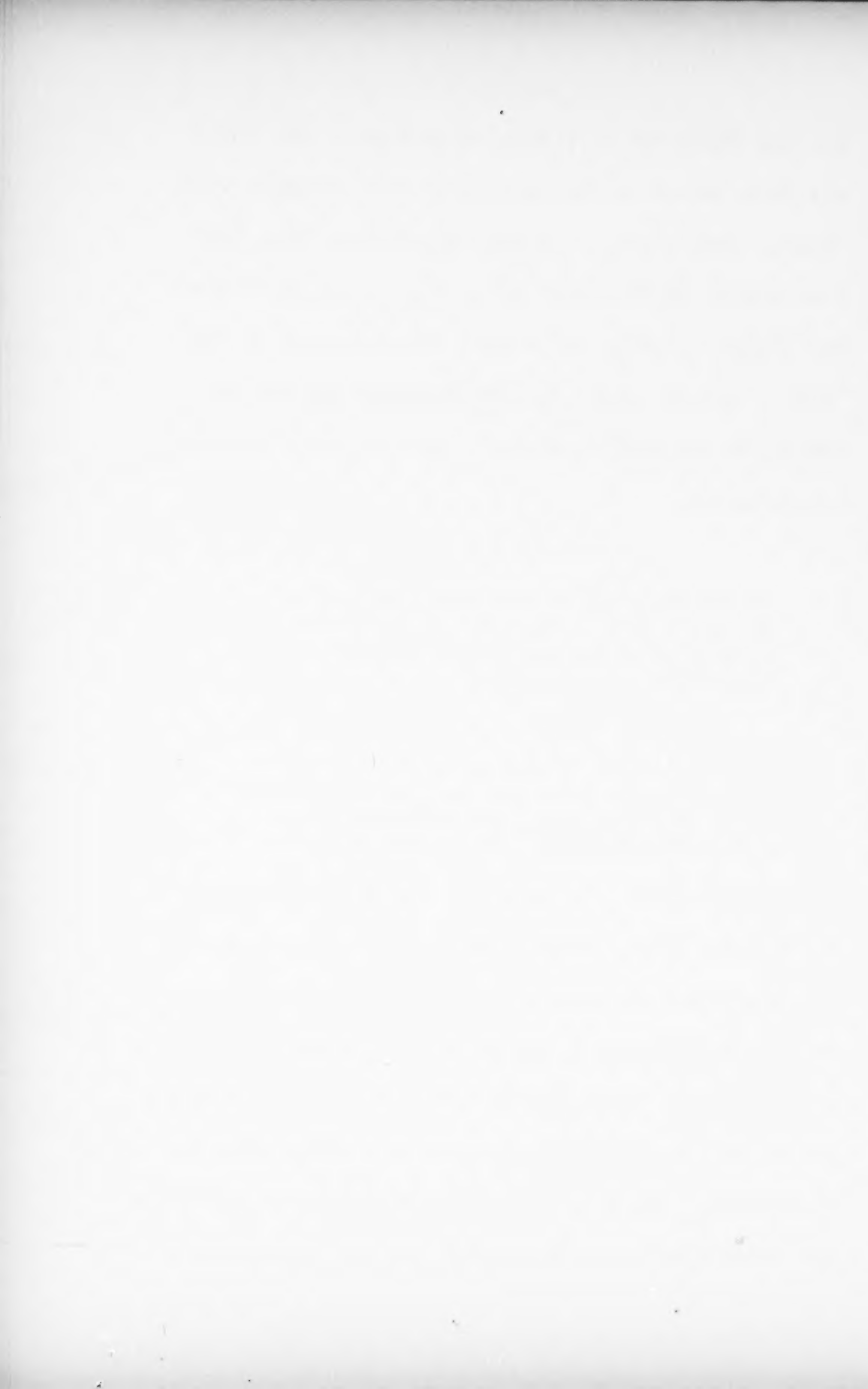
ARTICLE (IX)

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE (X)

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

U. S. Const. art. IX and X. In conformity with the Federal Constitution, the state of Pennsylvania has empowered its government, through a Constitution duly promulgated by a convention of its people, in a Declaration of Human Rights (Article I), to unalterably establish the rights people have to liberty and free government. These rights may be abandoned in a limited way under special circumstances but the governance of



the people may not be rejected or refused or changed individually. Section 2, Article I, Political powers, imposes all power in the people collectively, and government is founded on their authority which may be altered, reformed or abolished only in such manner as they may think proper. The laws of the Commonwealth are promulgated by the legislature, which is empowered by Article II of the Pennsylvania Constitution, and Article III which provides for the procedure in enacting bills, which become the law. Article IV of the Pennsylvania Constitution empowers the Judiciary, which functions to enforce and interpret the laws and the Constitution. As a Pennsylvania resident, appellant has a status, rather than a property right which he can divest. The status of resident carries with it not only the rights but the duties incumbent upon a citizen, resident or transient in Pennsylvania, which subjects him to the laws of the Commonwealth.

Since appellant points to no legal infirmity in the proceedings in the trial court, but relies on his assumed status of "U. S. Freeman" to immunize himself from the effects of his violation of Pennsylvania laws, and there is no legal or constitutional basis for the



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claimed status, his appeal must be denied and judgment of sentence affirmed.

Judgment of sentence affirmed.



APPENDIX B

IN THE COURT OF COMMON PLEAS OF LANCASTER CO., PENNA.
C R I M I N A L

COMMONWEALTH OF PENNSYLVANIA :

v. :

No. 1601 of 1988

ERIC J. PHELPS :

MEMORANDUM OPINION

BY BUCKWALTER, J.

The defendant, who has represented himself throughout these proceedings, filed a Motion to Vacate Sentence on January 23, 1989 from the sentence this Court imposed upon him on January 13, 1989.

That sentence on the misdemeanor one charge of Altered, Forged or Counterfeit Documents or Plates (75 P.S. 7122(3)) was a fine of \$100 and fifteen (15) days to twelve (12) months incarceration in Lancaster County Prison plus community service thereafter.

The Motion to Vacate, considered by this Court as a Motion to Modify, was denied on January 24, 1989. The defendant appealed from that denial and this memorandum opinion is written because of said appeal.

The defendant was properly sentenced within the permissible statutory limits and after the Court

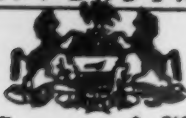
reviewed the defendant's pre-sentence report and listened to a lengthy statement by defendant before sentencing. Thus the Motion to Vacate was denied.

BY THE COURT:

for Ronald L. Buckwalter

RONALD L. BUCKWALTER
JUDGE

Attent. District Attorney
Copies to: *Ch. Dr.*
District Attorney
Eric J. Phelps
366 So. Main Street
P.O. Box 552
Manheim, PA 17545



Supreme Court of Pennsylvania

Eastern District

WILENE F. LACHMAN, ESQ.
PROTHONOTARY
TRICK TASSOS
DEPUTY PROTHONOTARY

488 CITY HALL
PHILADELPHIA, PA 19101
(215) 560-6370

August 14, 1990

Eric J. Phelps
366 South Main Street
P.O. Box 552
Manheim, Pennsylvania 17545

RE: Commonwealth of Pennsylvania v. Eric J. Phelps, Petitioner
No. 1172 E.D. Allocatur Docket 1989

Dear Mr. Phelps:

This is to advise you that the following Order has been endorsed on your Petition for Allowance of Appeal filed in the above captioned matter:

"August 7, 1990.

Petition Denied.

Per Curiam."

Very truly yours,

A handwritten signature in cursive script, appearing to read "Bernice G. LaBoo".

Bernice G. LaBoo
Chief Clerk

/EW

cc: Hon. Ronald L. Buckwalter
Henry S. Kenderdine, Jr., Esquire

Opposition Brief Unavailable for Filming